

**LAW OFFICES OF THOMAS K. CROWE, P.C.**

2300 M STREET, N.W.  
SUITE 800  
WASHINGTON, D.C. 20037

TELEPHONE (202) 973-2890  
FAX (202) 973-2891  
E-MAIL tkcrowe@cwix.com

January 13, 1999

**BY MESSENGER**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, D.C. 20554

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JAN 13 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Request for Emergency Relief; Posting  
of FCC Forms 470; CC Dkt. No. 96-45

Dear Ms. Salas:

The Commonwealth of the Northern Mariana Islands (CNMI), by its attorney, requests the Commission's urgent intervention to ensure that the CNMI's schools' and libraries' FCC Forms 470s for the 1999-2000 universal service funding period are posted immediately by the Schools and Libraries Division of the Universal Service Administrative Company (USAC), over which the Commission has jurisdiction. The CNMI is one of the most economically disadvantaged areas in the U.S., and--unless its Form 470s are immediately posted--stands to lose much-needed universal service funding.

Both the CNMI schools and libraries FCC Forms 470s were promptly filed shortly after the filing window opened on December 1, 1998. Specifically, the CNMI schools' FCC Form 470 was filed with the Schools and Libraries Corporation, the former administrator of the Schools and Libraries Program (SLC), on December 7, 1998, and the libraries' FCC Form 470 was filed on December 9, 1998.<sup>1</sup> Over one month has elapsed and neither of the CNMI's FCC Forms 470s have yet been posted.<sup>2</sup> This delay in posting the CNMI's FCC Forms 470s jeopardizes the CNMI's ability to receive funding given both its distant geographic location from

<sup>1</sup> Both applications were filed *via* FEDEX, which has confirmed delivery to the SLC on the above-stated dates.

<sup>2</sup> Apparently due to problems in posting the already-filed FCC Form 470s, the administrator on December 17, 1998 expanded the filing window from 80 to 100 days.

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the mainland U.S. and historical difficulty in accessing the administrator's website to file its forms. Even though the filing window still does not close until March 11, 1999, its distant geographic location and historical inability to access the administrator's website strongly suggest that--despite its best efforts--it may be unable to successfully submit its FCC Form 471s before the filing window closes. Indeed, the CNMI schools and libraries failed to receive much-needed funding during the last funding period due in part to both of these factors.<sup>3</sup>

The CNMI's distant geographic location from the mainland U.S. means that the delivery time for filing its FCC Form 471s will be significantly prolonged compared with express delivery services available in the mainland. Depending upon the delivery service used, express delivery from the CNMI to the mainland U.S. can take up to four or five business days, and sometimes significantly longer. Indeed, it is not uncommon for United States Customs Service officials to selectively examine such packages, which can result in delays of several weeks.

Filing its FCC Form 471s electronically through the administrator's website is--based on the CNMI's past experience--not a solution either. Indeed, the CNMI attempted to file its FCC Form 470s for the last funding cycle, but was unable to access the website. See Petition at 13-14. Moreover, even if the CNMI could successfully access the website to make the filing electronically, its signed FCC Form 471 certification pages must still be received before the window closes.<sup>4</sup> Thus, the CNMI inevitably remains at the mercy of the prolonged delivery time-periods discussed above.

The CNMI attempted to minimize these concerns by filing its FCC Form 470s for the 1999-2000 funding period as soon as possible, submitting them shortly after the filing window opened. When posting of the FCC Form 470s was delayed, the CNMI, through its attorneys, contacted the administrator twice in December 1998 and once earlier this month. Each time, we were advised that the administrator was processing a large number of applications and there was no way to expedite the posting of the CNMI's application nor to provide a status report as to when it might be posted. Further, to date, representatives from the CNMI schools and libraries have not been contacted by the administrator regarding any problems concerning the applications. Now, through no fault of its own, the CNMI's chances of receiving funding are diminishing with each day that the administrator delays in posting the FCC Form 470s.

The CNMI, therefore, urgently requests the Commission's immediate intervention in this matter to ensure that the CNMI's ability to receive much-needed universal service funding is not

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<sup>3</sup> See Petition for Reconsideration, or Alternatively, Waiver of the Commonwealth of the Northern Mariana Islands, CC Dkt. No. 96-45 (Sept. 11, 1998)(Petition).

<sup>4</sup> See "What's New: On-line Form 471 now available" at <<http://www.slcfund.org>>, visited Jan. 11, 1999.

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hopelessly compromised. Specifically, the CNMI requests that the Commission require the Schools and Libraries Division of USAC to post the CNMI's application immediately and in no event later than January 20, 1999 or take other steps to ensure that the CNMI's funding not be compromised. Given the time-sensitive nature of this matter, the CNMI urges the Commission to address this matter on an emergency basis.

The action requested herein is consistent with the Commission's objective of ensuring that the most disadvantaged schools and libraries receive funding priority.<sup>5</sup> Because the CNMI's schools and libraries are among the most disadvantaged in the U.S.,<sup>6</sup> they are the very focus of the Commission's universal service program. Moreover, since the Commission has oversight over the Schools and Libraries Division of USAC,<sup>7</sup> its involvement in this matter is both appropriate and necessary.

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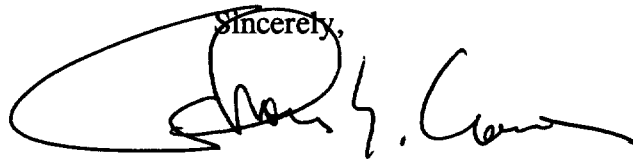
<sup>5</sup> See, e.g., In Re Federal-State Joint Board on Universal Service, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd. 14915, 14937-14940 (1998); In Re Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd. 8776, 9059-9060 (1997).

<sup>6</sup> In addition to qualifying for the maximum discount levels under the discount matrix, the CNMI is economically disadvantaged by various other measures as well. See Petition at 12-13.

<sup>7</sup> As explained in a recent Commission ruling, "[t]he Commission has ultimate control over the operation of the federal universal service support mechanisms through its authority to establish rules governing the support mechanisms and through its review of administrative decisions that are appealed to the Commission." In Re Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Board on Universal Service, Third Report and Order and Fourth Order on Reconsideration in CC Dkt. 97-21; and Eighth Order on Reconsideration in CC Dkt. 96-45, FCC 98-306 (Nov. 20, 1998).

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Questions regarding this matter should be directed to the undersigned.

Sincerely,  


Thomas K. Crowe,  
Counsel for the Commonwealth of the  
Northern Mariana Islands

cc: Sen. Daniel K. Inouye  
Sen. Ted Stevens  
Rep. Robert A. Underwood (Guam)  
Gov. Pedro P. Tenorio  
Rep. Juan N. Babauta (CNMI)  
All FCC Commissioners  
Lawrence E. Strickling, FCC  
James Schlichting, FCC  
Lisa M. Zaina, FCC  
Lisa Gleb, FCC  
Melissa Waksman, FCC  
Irene Flannery, FCC  
Kent R. Nilsson, FCC  
Cheryl L. Parrino, USAC  
Nancy Fanning, U.S. Dept. of Interior